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Attorneys for Plaintiff  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

WEDCO, INC., and DOES 1-10,

Defendants

Case No.: 3:12-CV-00523-RCJ-VPC

**PLAINTIFF EEOC'S EMERGENCY  
MOTION FOR STAY, OR IN THE  
ALTERNATIVE, A CONTINUANCE  
DUE TO GOVERNMENT SHUTDOWN  
AND ~~PROPOSED~~ ORDER**

Judge: Honorable Valerie P. Cooke  
United States Magistrate Judge

TO DEFENDANT WEDCO, INC. AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT: Plaintiff Equal Employment Opportunity Commission  
("EEOC") moves this Court for a stay of all deadlines for the duration of shutdown of Federal  
Government operations or, in the alternative, a continuance of all deadlines in this matter for

1 thirty (30) days or such continuance as deemed appropriate by the Court, due to the shutdown of  
2 operations of the Federal Government.

3 Specifically, EEOC brings this motion on an emergency basis due to the upcoming  
4 October 3, 2013 deadline to file a reply to Defendant Wedco's Case Management Report [Doc.  
5 #36] and the subsequent hearing on the parties' pending discovery disputes set for October 10,  
6 2013. EEOC makes this motion on an emergency basis because the shutdown commenced at  
7 midnight October 1, 2013 and the reply brief deadline falls a mere two (2) days after the shut  
8 down began. (Declaration of EEOC Trial Attorney Elizabeth Naccarato ¶¶ 2-5). EEOC seeks the  
9 Court's assistance to grant this motion on an expedited basis in order to avoid non-compliance  
10 with the Court's deadlines. (Dec. of Elizabeth Naccarato ¶¶ 6-7). The shutdown was uncertain  
11 until 12:01 p.m. October 1, 2013 and EEOC was unable to resolve this matter prior to the  
12 shutdown commencing. Counsel for the EEOC informed counsel for Wedco on September 30,  
13 2013, via letter and telephone, that in the event of a shut down EEOC would seek a motion to  
14 stay, or in the alternative for a continuance on October 1, 2013. (Dec. of Elizabeth Naccarato ¶¶  
15 8-9, Exhibit A, September 30, 2013 Letter from EEOC Counsel to Counsel for Wedco re: shut  
16 down).

17 EEOC seeks a stay or continuance for the following reasons:

- 18 1. EEOC is the Federal Government agency charged by Congress with interpreting,  
19 administering, and enforcing the Federal Government's major employment discrimination laws.
- 20 2. As of October 1, 2013, appropriations for funding Federal Government operations lapsed.
- 21 3. As a Federal Government agency, EEOC is subject to the federal Antideficiency Act  
22 which provides in part that an "officer or employee of the United States Government ...may not  
23 – ...involve [the] government in a contract or obligation for the payment of money before an  
24 appropriation is made unless authorized by law...." (31 U.S.C. § 1341(a)(1)(B)) and "... may not  
25 accept voluntary services ...or employ personal services exceeding that authorized by law except  
26 for emergencies involving the safety of human life or the protection of property" (31 U.S.C. §  
27 1342). Such emergencies "do[ ] not include ongoing, regular functions of the government the  
28

1 suspension of which would not imminently threaten the safety of human life or the protection of  
2 property” (id.).

3 4. Because of the lapse in appropriations of Federal Government funding and the  
4 requirements of the Antideficiency Act, EEOC lawyers are prohibited from engaging in litigation  
5 activities in the present circumstances. Plaintiff EEOC, therefore, requests a continuance in this  
6 case with respect to the matters described above until appropriations for funding Federal  
7 Government operations are restored.

8  
9 Dated: October 1, 2013

Respectfully submitted,

s/Elizabeth A. Naccarato

Elizabeth A. Naccarato

U.S. EEOC

333 Las Vegas Blvd South  
Ste. 8112

Las Vegas, NV 89101

Telephone: (702) 388-5072

Facsimile: (702) 388-5094

17 **IT IS SO ORDERED**

18   
**U.S. MAGISTRATE JUDGE**

19 **DATED:**   
20 October 4, 2013  
21  
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**ORDER**

IT IS SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

DATED \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE VALERIE P. COOKE  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF CM/ECF SERVICE**

I am, and was at the time the herein mentioned service took place, a citizen of the United States, over the age of eighteen (18) years.

I am employed in the Legal Unit of the Las Vegas Local Office of the U. S. Equal Employment Opportunity Commission. My business address is U.S. Equal Employment Opportunity Commission, 333 Las Vegas Boulevard South, Suite 8112 Las Vegas, Nevada 89101. On the date that this declaration was executed, as shown below, I served the foregoing:

**PLAINTIFF EEOC'S EMERGENCY MOTION FOR STAY, OR IN THE ALTERNATIVE, A CONTINUANCE DUE TO GOVERNMENT SHUTDOWN AND [PROPOSED] ORDER** via the Case Management/Electronic Case Filing (CM/ECF) system at Las Vegas, Clark County, Nevada, to:

Anthony L. Hall, Esq., &  
Ricardo N. Cordova, Esq.  
HOLLAND & HART LLP  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511  
Telephone: (775) 327-3000  
Facsimile: (775) 786-6179  
[ahall@hollandhart.com](mailto:ahall@hollandhart.com)  
[mcordova@hollandhart.com](mailto:mcordova@hollandhart.com)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 1, 2013 at Las Vegas, Nevada .

/s/Elizabeth A. Naccarato  
Elizabeth A. Naccarato



**DECLARATION OF EEOC TRIAL ATTORNEY ELIZABETH A. NACCARATO**

I, Elizabeth A. Naccarato, declare and state:

1. I am a trial attorney with the Las Vegas Local Office of the United States Equal Employment Opportunity Commission (EEOC). I have personal knowledge of the facts stated herein, and if called as a witness to testify as to the matters stated herein, I could and would competently do so.
2. At 12:01 a.m. on October 1, 2013, appropriations funding EEOC's operations lapsed.
3. As a federal government agency, EEOC is subject to the Antideficiency Act which provides in part that an, "officer or employee of the United States Government ... may not ... involve [the] government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law...." (31 U.S.C. § 1341(a)(1)(B)) and "... may not accept voluntary services ... or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property" (31 U.S.C. § 1342). EEOC's ongoing regular functions do not threaten the safety of human life or protection of property.
4. Therefore, because of the lapse in appropriations and the requirements of the Antideficiency Act, EEOC attorneys are prohibited from engaging in litigation activity under the present circumstances.
5. Because the lapse in funding was not known or certain until 12:01 p.m. on October 1, 2013, EEOC could not resolve this matter prior to the shut down commencing.
6. As the deadline for the EEOC's reply is October 3, 2013, EEOC could not know it would not be able to comply with the Court's deadline until 12:01 a.m. on October 1, 2013.
7. EEOC seeks this stay and/or continuance in order to avoid non-compliance with this Court's deadline because the Commission must comply with the Antideficiency Act.
8. On September 30, 2013, I contacted counsel for Wedco via letter, a true and correct copy of which is attached hereto as Exhibit A.
9. On September 30, 2013, I also contacted counsel for Wedco via telephone. I left messages with Marcia Filipas, assistant to Anthony Hall and Rico Cordova, and on Mr.

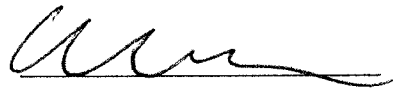
1 Cordova's voicemail. Mr. Cordova returned my call and I informed him of the  
2 circumstances of a lapse in appropriations and that EEOC would seek the instant motion  
3 and would do so on an emergency basis due to the impending deadline of October 3,  
4 2013 in the event of a shutdown at 12:01 p.m. October 1, 2013.

5 10. The movant is located at 333 Las Vegas Boulevard South Suite 8112 Las Vegas, Nevada  
6 89101. Telephone Number: 702.388.5072.

7 11. The affected party is Wedco, Inc. c/o Holland and Hart 5441 Kietzke Lane, Second Floor,  
8 Reno, Nevada 89511. Telephone: 775.327.3000.

9 I declare under penalty of perjury under the laws of the United States of America that the  
10 foregoing is true and correct. Executed on October 1, 2013 in Las Vegas, Nevada.

11  
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13  
14 By:



15 Elizabeth A. Naccarato  
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# EXHIBIT A



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Las Vegas Local Office**

333 Las Vegas Blvd. South, Suite 8112  
Las Vegas, NV 89101  
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Las Vegas Direct Dial: (702) 388-5013  
TTY (702) 388-5098  
FAX (702) 388-5094  
Website: [www.eeoc.gov](http://www.eeoc.gov)

September 30, 2013

Via E-mail to: [ahall@hollandhart.com](mailto:ahall@hollandhart.com); [RNcordova@hollandhart.com](mailto:RNcordova@hollandhart.com)  
Holland & Hart  
5441 Kietzke Lane  
Second Floor  
Reno, Nevada 89511

Dear Msrs. Hall and Cordova,

As you may be aware, the EEOC and other federal agencies face a potential lapse in appropriations at midnight on October 1, 2013. While we hope that this will not happen, if it does, the EEOC will seek a stay and/or continuance in our litigation against Wedco, Inc. to last for the term of the lapse in appropriations. Specifically, because the deadline to filed replies to each side's Case Management Report outlining our respective positions as to the pending discovery disputes is this Thursday October 3, 2013 and the subsequent hearing is October 10, 2013, EEOC will file the motion for stay and/or continuance on an emergency basis in accordance with Local Rule 7-5(d). All other discovery deadlines will likewise be postponed if there is a lapse in EEOC appropriations.

If there is a lapse, Regional Attorney Anna Y. Park will be the contact person for all litigation matters in the EEOC's Los Angeles District inclusive of Las Vegas, Nevada. You may contact her at [anna.park@eeoc.gov](mailto:anna.park@eeoc.gov) or 312.894.1080. In the meantime, please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Naccarato", is written over a horizontal line.

Beth Naccarato